



**BILLING CODE – 4510-FP-P**

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

Comment Request for Information Collection for Form ETA-9142-B-CAA, Revision of Currently Approved Collection

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL or Department), as part of its effort to streamline information collection, clarify statutory and regulatory requirements, and provide greater transparency and oversight in the H-2B nonimmigrant visa application processes, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995.

This program helps provide that all requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the proposed revisions to Office of Management and Budget (OMB) Control Number 1205-0530, containing Form ETA-9142-B-CAA –Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act, which it is currently

set to expire on January 31, 2018. A copy of the proposed revised information collection can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit written comments to William W. Thompson II, Administrator, Office of Foreign Labor Certification, Box# 12-200, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number: 202-513-7350 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-513-7395. E-mail: [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov) subject line: ETA-9142-B-CAA. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The H-2B visa program enables employers to bring nonimmigrant foreign workers to the U.S. to perform nonagricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(b). For purposes of the H-2B program, the INA and governing federal regulations require the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States on a temporary basis for

the purpose of performing non-agricultural services or labor will not, by doing so, adversely affect wages and working conditions of U.S. workers who are similarly employed. In addition, the Secretary must certify that qualified U.S. workers are not available to perform such temporary labor or services.

Section 543 of the Consolidated Appropriations Act, 2017, Public Law 115–31 (May 5, 2017) (2017 Act), authorized the Secretary of the Department Homeland Security (DHS), in consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers in Fiscal Year (FY) 2017, notwithstanding the otherwise established statutory numerical limitation. In consultation with the Secretary of Labor, the Secretary of Homeland Security increased the H-2B cap for FY 2017 by up to 15,000 additional visas for American businesses that were likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their petition before the end of FY 2017. As set forth in the Temporary Rule: Exercise of Time-Limited Authority to Increase the Fiscal Year 2017 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program, 82 FR 32987 (July 19, 2017), which implemented the 2017 Act, employers seeking authorization to employ workers under this time-limited authority were required to complete and submit Form ETA-9142-B-CAA.

The authority to issue any new visas under the 2017 Act has expired, and employers are no longer permitted to submit Form ETA-9142-B-CAA. However, employers continue to be required to retain the form and required supporting documentation for 3 years from the date of the certification. The retention requirement expires on October 1, 2020. As a

result, the Department now seeks public comment to revise the information collection as a result of continued record retention requirements following the expiration of Form ETA-9142-B-CAA, and elimination of the burden associated with the preparation and submission of the form, which is no longer required or accepted in connection with petitions for H-2B workers.

## **II. Review Focus**

DOL is particularly interested in comments that:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; and also the agency's estimates associated with the annual burden cost incurred by respondents and the government cost associated with this collection of information;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

## **III. Current Actions:**

Agency: DOL-ETA

Type of Review: Revision.

Title: Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers  
Under Section 543 of the Consolidated Appropriations Act, 2017 Public Law 115-31  
(May 5, 2017).

Form: Form ETA-9142-B-CAA

OMB Number: 1205-0530

Affected Public: Private Sector (businesses or other for-profits and not-for-profit  
institutions) and State, Local, and Tribal Governments.

Total Annual Respondents: 2,298

Annual Frequency: 1

Total Annual Responses: 2,298

Average Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 2,298 hours.

Total Annual Burden Cost for Respondents: \$104,674.00.

Comments submitted in response to this comment request will be summarized  
and/or included in the request for OMB approval of the ICR; they will also become a  
matter of public record. Commenters are encouraged not to disclose private and/or  
sensitive information (e.g., Social Security Numbers or confidential business  
information).

**Rosemary Lahasky,**

Deputy Assistant Secretary for Employment and Training Administration,  
Department of Labor.

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